

**Response To Comments
for the
Los Angeles River Trash Total Maximum Daily Load (TMDL)**

November 27, 2000

I. Legal Background Comments

Respondent	Date	Comment	Response
Azusa City of Los Angeles City of Claremont Executive Advisory Committee	5/11/00 5/15/00 5/19/00 5/18/00	The TMDL program, as currently proposed, is not an appropriate vehicle for addressing litter. Public policy on how to most appropriately address litter, including whether to address it through the TMDL program, should be made in the public forum in accordance with the State Administrative Procedures Act, the Water Code, and CEQA. The section 303(d) listing process for the entire region was not a proper forum to address this issue.	The process for adoption of the TMDL complies with applicable provisions of the state Administrative Procedures Act, the Water Code, and CEQA, and has been undertaken in conformity with all requirements for public notice and input. The decision to address litter in a TMDL process was made in a public forum with the adoption of the §303(d) list. The §303(d) listing process is a federal requirement of the Clean Water Act, directly related to those provisions requiring development of TMDLs.
Executive Advisory Committee	5/18/00	A regulatory program, such as the proposed TMDL for trash, that holds local governmental agencies liable for the independent behavior of individuals is inappropriate.	The program set forth in the draft TMDL is focused on stormwater discharges regulated under the cities' NPDES permits, which place restrictions on discharge of waste into waters of the state. Cities operating municipal storm drain systems must be permitted, and discharges therefrom are appropriately regulated.

Richards, Watson & Gershon	5/15/00	<p>The Regional Board, in establishing the TMDL, must comply with the provisions of the state Administrative Procedures Act regarding formal rulemaking, at California Government Code §11340 et. Seq. California Government Code §13353(b) provides that “any policy, plan or guidelines, or any revisions thereof, that the State Water Resources Control Board has adopted or that a court determines is subject to this part, after June 1, 1992, shall be submitted to the [Office of Administrative Law].”</p>	<p>The Regional Board is following the process required by relevant provisions of the APA. The TMDL is to be adopted as a Basin Plan Amendment and will be submitted to the State Water Resources Control Board for adoption and subsequently to the Office of Administrative Law (OAL) for approval, in accordance with Government Code §1153. That section applies specifically to the basin planning process, in place of formal rulemaking procedures set forth at Government Code §11340.5.</p>
City of Los Angeles	5/15/00	<p>The Regional Board must comply with all state and federal public comment periods and notice requirements.</p>	<p>The Regional Board has complied with all state and federal public comment periods and notice requirements, as set forth in the Clean Water Act, Porter-Cologne and CEQA.</p>
Richards, Watson & Gershon	5/15/00	<p>The TMDL imposes a new state program and requirements beyond those contained in the Clean Water Act. Pursuant to the California Constitution, Article XIII(B), Section 6, which prohibits a state agency from mandating a new program or higher level of service on any local government unless the state provides a source of funds to cover the costs of the program or service, the State must provide funds for implementation</p>	<p>Because the storm drain system is one of the primary contributors to the trash problem in the Los Angel River, the programs included pursuant to the draft TMDL are administered through storm water permits issued to cities within the L.A. River watershed. The reductions in loading will be required as part of the National Pollution Discharge Elimination System (NPDES) permits. The Constitutional provision referenced addresses additional services required of local agencies, not regulatory requirements imposed upon all</p>

	<p>of the TMDL. The California Commission on State Mandates should determine whether the programs under the TMDL are reimbursable.</p>	<p>Permittees. The State Board has previously found that the requirement to reimburse local agencies for state-mandated costs does not apply to NPDES permits. SWRCB Order No. WQ 90-3 (In the Matter of San Diego Unified Port District). In addition, the exemption afforded by Government Code §17556(c) applies, since the TMDL programs implement federal laws and regulations. The requirement that states develop TMDLs for impaired waters is clearly set forth at 33 U.S.C. 1313(d)-(e).</p>	<p>Under California Water Code §13267, a regional board, in establishing or reviewing any water quality control plan, may investigate the quality of waters of the state within its region. Pursuant to this authority, the regional board may require any discharger to furnish technical or monitoring program reports that the regional board requires. Calif. Water Code §13267(b). The Paperwork Reduction Act (44 U.S.C. §§3501 et seq.) is a federal act, applicable to federal agencies. By its terms, State agencies are not included.</p>	<p>The TMDL will be incorporated as a Basin Plan Amendment. The Secretary of Resources has certified the basin planning program as exempt from the CEQA requirement for preparation of an environmental impact report (EIR) or negative declaration and initial study. Calif. Code of Reg. Title 14, Section 15251. The plan amendment, together with the staff report and backup materials,</p>
	<p>Richards, Watson & Gershon</p>	<p>5/15/00</p> <p>The information collection requirements contained within the TMDL go beyond the requirements of EPA's regulations implementing the Clean Water Act and may be invalid for failure to comply with the Paperwork Reduction Act.</p>		
	<p>Richards, Watson & Gershon</p> <p>Executive Advisory Committee</p> <p>City of Los Angeles</p>	<p>5/18/00</p> <p>5/15/00</p> <p>The Regional Board must comply with the provisions of the California Environmental Quality Act, Calif. Pub. Res. Code §§21000 et. Seq. ("CEQA").</p>		

		serve as a “functional equivalent” to an EIR or negative declaration and initial study. The Regional Board must file the CEQA Notice of Filing, Environmental Checklist Form and Notice of Decision. The Regional Board has or will comply with these CEQA requirements.
Richards, Watson & Gershon Executive Advisory Committee County of Los Angeles	5/15/00 5/18/00 5/15/00	The draft TMDL does not reflect any serious analysis of the individual factors set forth in Water Code §13241, [setting forth factors to be considered in establishing water quality objectives], specifically economic considerations.
Executive Advisory Committee	5/18/00	The TMDL does not comply with Water Code Section 13242, requiring that a program of implementation necessary to achieve water quality objectives be developed to include: a description of the nature of actions necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private; a time schedule for the actions to be taken; and a description of surveillance to be undertaken to determine compliance with objectives.

City of Los Angeles 5/15/00	Water quality standards do not include the state's antidegradation policy.	Federal regulations provide that, for the purposes of §303(d) listing, “applicable water quality standards’ . . . include numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements.” 40 C.F.R. 130.7(b)(3).
City of Los Angeles 5/15/00	The Regional Board needs to disclose what governmental body is required to adopt the TMDL by the consent decree deadline of March 2001.	The Regional Board must approve a TMDL for trash in the Los Angeles River by March 2001, per the consent decree.
City of Los Angeles 5/15/00	The Regional Board must differentiate between existing, potential and intermittent beneficial uses.	The Clean Water Act requires that TMDL's be developed in order to implement water quality standards that technology-based controls are insufficient to meet. The applicable water quality standards to be implemented are found in the Los Angeles Region Water Quality Control Plan (Basin Plan). Under the Basin Plan, it is clear that all beneficial uses must be protected. The Basin Plan does not differentiate between protection of existing, potential and intermittent beneficial uses.
City of Los Angeles 5/15/00	The Regional Board must evaluate and disclose those issues that impact the designated beneficial uses of the River to the greatest degree and an expected time line to resolve each of those issues.	The draft TMDL establishes a method for analyzing potential sources of trash impacting beneficial uses of the Los Angeles River. The process set forth will enable the Regional Board to evaluate aspects of the sources causing impairment and use these findings as part of the implementation plan.

City of Los Angeles	5/15/00	<p>The Regional Board must go through appropriate formal administrative procedures to promulgate TMDL criteria. The Clean Water Act does not authorize states to base regulatory decisions on subjective interpretations of narrative criteria. Section 304(a)(8) of the Clean Water Act indicates that states are not free to rely on narrative criteria when numeric criteria are not available; numeric criteria must be developed.</p> <p>A TMDL must be developed where technology-based controls are insufficient to implement water quality standards applicable to an impaired waterway. This requirement exists independent of whether the applicable water quality standard is numeric or narrative, and the Clean Water Act does not distinguish between TMDL's established to achieve narrative as opposed to numeric water quality standards. <i>See</i> 40 C.F.R. 130.7(c). The Clean Water Act uses the term "criteria" to be synonymous with state-adopted water quality objectives or standards. 40 C.F.R. 131.3(b).</p> <p>The TMDL process requires only that a numeric target be developed in order to implement the applicable water quality standard. Numeric water quality standards or objectives are not required in order to develop this target. Section 304(a)(8) of the Clean Water Act and 40 C.F.R. 131.11(a)(2) both concern methods for development of water quality standards for toxic pollutants. Because trash is not a toxic pollutant, these provisions are not implicated.</p>
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II. Numeric Target Comments

Respondent	Date	Comment	Response
Azusa	5/11/00	A zero-trash-TMDL would be impossible to meet.	The final load allocation as derived from the numeric target of zero trash discharged or full

Long Beach	5/15/00	The proposed Numeric Target of zero (0) is, by your own admission, impossible to achieve.	capture of trash prior to discharge of runoff generated from a rain intensity of 0.6 inch/hr or less. This level of treatment is achievable using commercially available treatment technology. The level may also be achieved through enforcement of anti-litter ordinances and partial capture control devices.
Vernon	5/15/00		A possible review of the numeric target would be based on the findings of future studies, should such studies document that a higher loading will fully support the designated beneficial uses. Such studies may find that some types of trash (e.g., plastic) are more harmful than other types, and therefore loadings may vary depending on the type of trash.
City of Los Angeles	5/15/00	We have great concerns regarding the "studies" upon which the zero TMDL and other conclusions may eventually be justified.	True, but no data were made available to the Regional Board to substantiate that a loading of greater than zero trash would fully protect the beneficial uses.
La Cañada Flintridge	4/14/00		
City of Claremont	5/19/00		
City of Whittier	5/23/00		
City of Bellflower	5/24/00		
City of Glendale	5/11/00		
County of Los Angeles	5/15/00		
Redondo Beach	5/12/00		
County of Los Angeles	5/15/00	The Porter-Cologne Act, Water Code Section 13241 states, "It may be possible for the water quality to be changed to some degree without unreasonably affecting beneficial uses."	
County of Los Angeles	5/15/00	There is no evidence that the TMDL has to be zero to prevent unreasonable impairment of beneficial uses.	We have no evidence that anything above zero will fully protect the beneficial uses. The numeric target of zero is fully protective and includes an implicit margin of safety.
City of Signal Hill	7/13/00		
Azusa	5/11/00		
City of Bellflower	5/24/00		

Executive Advisory Committee	5/18/00		
Redondo Beach Executive Advisory Committee	5/12/00 5/18/00	If the RWQCB insists on setting a final goal at this time, it should be based on the amount of trash present in other watersheds nationwide that are not listed as impacted due to trash.	The numeric target is based on the applicable water quality standards, applicable numeric and/or narrative criteria, and antidegradation policies. The applicable water quality standards are contained in the Water Quality Control Plan (Basin Plan) for the Los Angeles Region.
County of Los Angeles Executive Advisory Committee	5/15/00 5/18/00	We suggest the ultimate goal and margin of safety be listed as undetermined pending future study, so that the realistic goals can be set in accordance with State and Federal requirements.	The numeric target is necessary to calculate load allocations. The final load allocation may be revised if substantial reductions in trash loadings are achieved and sustained, and future studies demonstrate that a higher loading will not impair beneficial uses.
Heal the Bay	5/12/00	Heal the Bay is opposed to a future reassessment of this numeric target. As the Regional Board states, "...even a single piece of trash can be detrimental, and no level of trash is acceptable in waters of the state." Accordingly, we strongly suggest removing from the draft TMDL any language about the numeric target being "asymptotic" or it "not being possible to achieve the goal of zero." From both a legal and a policy perspective, any such backslicing language is misleading.	The draft TMDL does not refer to the numeric target as being asymptotic. It states that "as the quantity of trash deposited into the river nears zero, the relationship between the amount of trash deposited and the amount of time elapsed becomes asymptotic." In addition, the TMDL does not state that it is not possible to reach a goal of zero. In the March 17 th Draft TMDL, it was stated that "it may not be possible to reach a goal of zero." This language has been stricken in the final draft TMDL because zero discharge or "full capture" as defined in this TMDL is achievable using commercially available treatment technology.

Heal the Bay County of Los Angeles	5/12/00 5/15/00	... notwithstanding a zero trash Standard, a Margin of Safety section should be included in the TMDL.	We are unsure as to how a margin of safety could be applied to a zero discharge load allocation. However, any future review of the load allocation would take into account a margin of safety.
City of Los Angeles	5/15/00	A TMDL standard is absolute and therefore is inconsistent with the Maximum Extent Practicable (MEP) standard by which non-point sources are regulated.	A TMDL must be developed where technology-based controls are insufficient to implement water quality standards applicable to an impaired waterbody.
Heal the Bay	5/12/00	Currently, there is a misperception among the cities that further reassessment is guaranteed. In addition, the draft TMDL states that "significant reductions" must be achieved before reassessment, but does not define what constitutes "significant reductions." Heal the Bay strongly suggests that the TMDL specify that reassessment of a municipality's implementation timeline cannot take place before 2007, and that prior to any potential Regional Board timeline reassessment, trash reduction of not less than fifty percent (50%) must be achieved.	The Regional Board may consider reviewing the numeric target once a reduction of 70% has been achieved and sustained. This means that the load allocations can be reviewed after visibly effective implementation strategies have been demonstrated. In the final draft TMDL, a 70% reduction, based on a 3-year rolling average, must be achieved no later than the 2010-2011 storm season.
City of Los Angeles Executive Advisory Committee	5/15/00 5/18/00	No data is presented in the TMDL to indicate zero litter can reasonably be achieved or to evaluate economic factors.	As defined in the final draft TMDL, zero discharge or full capture can be achieved using commercially available treatment technology or via effective litter abatement and partial capture technology. The final draft TMDL includes economic factors.

III. Source Analysis Comments

Respondent	Date	Comment	Response
City of La Cañada Flintridge	4/14/00	I would strongly urge the Board to eliminate the wilderness areas from consideration as trash-generating areas.	The Board staff understands that all land uses are not equal in terms of trash generation. Each permittee can decide on which land uses to concentrate its monitoring efforts. The Los Angeles Forest was not included in the watershed-wide load allocations. Rather the "urban" portion of the watershed used to calculate load allocations is the total area comprised of the incorporated cities and the unincorporated portions of Los Angeles County.
Arcadia City of La Cañada Flintridge	4/13/00 4/14/00	Downstream of the City are three major spreading grounds, 1) Whittier Narrows Recreation Area, 2) Peck Lake, and 3) the Rio Hondo Spreading Grounds. This is in addition to the Whittier Narrows Dam. It is unlikely that the cities above these areas contribute significantly to the trash and litter problem in the Long Beach Harbor. These cities should be exempted from the trash TMDL.	All cities within the Los Angeles River watershed are required to participate in this watershedwide TMDL. Impairment is not restricted to Long Beach. For example, Peck Lake is impaired for trash and will therefore have to be monitored as well.
Heal the Bay	5/15/00	Heal the Bay does not support the Regional Board's establishment of the seven (7) land use types for load allocations. Heal the Bay suggests the land uses be even further broken up into nine (9) representative land uses (divide	We agree with Heal the Bay that the seven land uses previously established were not representative enough. The land uses have been further broken down in the following categories: high density residential, low density residential, commercial and services, industrial, Public Facilities, Educational

		Institutions, Military Installations, Transportation, mixed urban, open space and recreation, agriculture, and water.
Redondo Beach	5/12/00	<p>residential into single, multiple, and mixed residential land uses). In order to generate accurate load allocation factors that are based upon the individual land uses themselves, the land uses should be distinguished to a significant degree, thereby building the source identification component directly into the baseline monitoring. Clearly, single family homes on large parcels may generate less trash than high-density residential neighborhoods.</p> <p>The process of trying to reduce the amount of trash is difficult enough; dividing the load allocation into many land uses will only complicate the process and may not result in cleaner storm water.</p>
City of La Cañada Flintridge	4/14/00	<p>... to treat all land uses as equals is ignoring the visible data that is evident on streets within the watershed.</p>
County of Los Angeles	5/15/00	<p>We feel that the types of land uses and number of sites for each may need modification. Some land uses, such as agricultural, may not need monitoring, while others such as residential could be</p>
		Staff agrees and has revised the final draft TMDL accordingly.

		subdivided into high and low-density categories to give more representative data.	
South El Monte City of Temple City	5/15/00 5/17/00	The City of South El Monte should not be included in the Trash TMDL for the Los Angeles River because the city's drainage flows into the Whittier Narrows Area.	The Whittier Narrows Flood Control Basin drains to the Rio Hondo, a tributary of the Los Angeles River. Any city that drains into the Los Angeles River watershed will be given a load allocation in the Trash TMDL. In addition, cities situated over the watershed boundary should consider that the part of the city that is located in the watershed is affected by this TMDL.
County of Los Angeles	5/15/00	There is no source given for the listed problem of "nurdles" described as pre-production virgin material from plastic parts manufacturers.	A definition of the word "nurdle" is found in the September 1999 issue of the Oceanographic Research Vessel Algalita Foundation Newsletter. Also see EPA 1992 as referenced in the final draft TMDL.
County of Los Angeles	5/15/00	... there are no figures or distinctions between the amounts of trash deposited from the storm drain system versus the amounts of litter contributed by beach goers.	The Regional Board is not aware of studies making such distinctions. Impairment is not limited to the beaches but as described in Section III of the final draft TMDL, several reaches of the Los Angeles River are listed as impaired for trash.
City of Glendale	5/11/00	Please provide the amount of trash and litter collected over time by the Regional Board that may be attributed to Glendale.	The Regional Board has not collected trash or litter that can be directly attributed to the City of Glendale.
City of Glendale	5/11/00	Please provide the estimated amount of	By definition, anthropogenic trash does not occur

	anthropogenic trash and litter that are naturally occurring . . . at the Los Angeles River and at the waters of Long Beach.	"naturally."
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IV. Load Allocation Comments

Respondent	Date	Comment	Response
City of La Cañada Flintridge	4/14/00	If the Board continues to use the 64 gallons per 0.10 square mile, I fear that the allocation will be meaningless.	The current default allocations will be revised if more representative data are provided to the Regional Board by the end of the baseline monitoring period.
Heal the Bay	5/15/00	...although we are confident the Regional Board itself recognizes that the load allocation estimates of current discharges are based upon a "default datum" that is itself derived from scientifically indefensible extrapolations of trash from a single Calabasas CDS unit, we must reiterate that such a default datum is a ridiculous basis for load allocation calculation. Even as an example, this section and resultant loadings per municipality should be eliminated in the final TMDL document. The default allocations should be based upon the baseline monitoring results. Accordingly, it is imperative that the	The Regional Board recognizes the value of having more representative data. For that reason, staff is recommending a baseline monitoring program designed to collect more representative data for use in refining the baseline load allocation.

		Regional Board conduct stringent review of the baseline monitoring, in order to meaningfully set load allocations.
Redondo Beach	5/12/00	The TMDL allocations should not be distributed using Municipal boundaries.

V. Baseline Monitoring Comments

Respondent	Date	Comment	Response
Arcadia	4/13/00	The trash and litter TMDL does not have a uniform monitoring methodology; a) Is the trash measured in the streets, in the catch basins, in the drains, at outfalls, or in the river?; b) What method of capture is required:1/4" screens, 1/2" screens, gravity separators, deflection devices?; c) Has the potential for flooding from the monitoring stations been investigated? Flooding is a very serious concern for the City and its residents.	The intent of the monitoring plan is to require capture and monitoring of trash prior to the trash entering the river. The method of capture is to be determined by the discharger, so that the Regional Board will not necessarily decide on the methodology to be used. Permittees are well aware of flood protection issues, and potential secondary impacts should be considered by the permittee when the method is selected.

Arcadia	4/13/00	The City has already embarked on a path of instituting BMPs that includes concerns for trash and litter. What provisions are there for establishing our baseline at the original pre-BMP levels so we will not be penalized for our proactive stance?	See clarification under new draft. This TMDL is not intended to penalize the cities that have been implementing BMPs and have reduced their trash output. The baseline monitoring program while establish a load allocation throughout the watershed, so cities that have started to reduce their output will have the same baseline allocations as cities that have no BMPs in place.
La Cañada Flintridge	4/14/00	If a city proposes one site for monitoring the required 10% area of the city, how will the Board have a choice of another location? If a city must submit multiple locations for ongoing monitoring the Board must state that fact clearly. ¹⁵	The original monitoring required multiple sites for both ongoing and baseline monitoring. In addition, the final draft TMDL provides for an alternate baseline monitoring program that may cover less than 10% of the drainage area, provided that the program provides representative data.
La Cañada Flintridge County of Los Angeles	4/14/00 5/15/00	The monitoring as described, to be structured for "full capture," needs significant improvements. What does full capture mean? There appears to be no available technology to obtain full capture of trash from storm flows. This requirement could preclude any type of in-flow monitoring.	The Board recognized that "true" full capture cannot be achieved under the present "flush flood" conditions, and is thus addressing this issue by formulating an "alternate" definition of full capture, which, in practice, requires that approximately 90% of the flow passing through a storm drain, including the first flush, be intercepted in order for a monitoring device to be considered full capture. In addition, the definition of full capture is amended in order to only apply to particles over 5 mm in diameter.
La Cañada Flintridge	4/14/00	...will the Board have the option of rejecting a monitoring plan if it is proposed to capture the trash from 10%	The Regional Board may refuse any monitoring plan if the proposed areas to be monitored do not provide an adequate representation of the land use

		of city area from various land uses?	to be monitored.
Heal the Bay	5/15/00	Heal the Bay supports the current draft TMDL baseline monitoring implementation requirement of 10% land area to be surveyed by each watershed region for each land use. As this TMDL requires an aggregate "trash generation factor" for each land use, it is critical to survey a representative portion of the land use within a given municipality.	Under the current provisions, it is possible that less than 10% of the land area will be monitored in order to establish baseline data.
Heal the Bay	5/15/00	Heal the Bay also supports the requirement for monitoring after every precipitation event of .10 inch or more, or after every two months without rain and every two months in the absence of precipitation. The .10 requirement is far from onerous -- it is currently used in the industrial storm water permit context and is in the industrial storm water permits for several cities (e.g., City of Long Beach).	The Regional Board will be requesting that monitoring devices be emptied after every precipitation event of .25 inch or more. This modification has been made based on comments and other information suggesting that a .10 inch rain does not usually generate enough runoff to transport trash to the storm drain.
Heal the Bay	5/15/00		The Regional Board will suggest the participation of Heal the Bay in the development of the watershed-wide monitoring plan.

		current baseline monitoring approach (e.g., only requiring one-quarter to one-third the amount of samples that are required by the draft TMDL approach).	
Heal the Bay	5/15/00	Notwithstanding a watershed-based baseline monitoring approach however, Heal the Bay believes that implementation monitoring is best completed by every city individually.	The Regional Board will not weigh in on the cities' decision to act jointly or individually. These considerations are up to the cities. However, when acting jointly, all parties will be held liable for meeting the assigned load allocations.
Heal the Bay	5/15/00	... we urge the Regional Board to disseminate the appropriate written protocols and/or forms to allow citizens and non-profit groups to do visual monitoring of trash (in either catch basins and/or the river itself) in a consistent manner.	The Regional Board agrees that consistency in monitoring is important for the validity of results, and will distribute an appropriate protocol, including a visual trash monitoring sheet, to all citizen/volunteer monitoring groups that request it.
City of Bellflower	5/24/00	If the goal is zero trash to reach water bodies... why collect data on how much debris is collected prior to the water bodies?	The purpose of baseline monitoring is to collect representative data regarding trash generation rates by land use, within the L.A. River Watershed. The resulting load allocations will be based on the watershed-wide average load allocations for each land use. This strategy is intended to reward those cities that have been proactive in litter reduction measures and does not take into account the use of such trash collection devices.
			During implementation, discharges will be based on mass balance calculations taking into account the trash generation rates less the amount of trash retained in collection devices, except that the discharge from full capture treatment devices, as

		defined in the TMDL, will be considered to be in compliance with the final load allocation for the area served by such a device, provided that the device is adequately sized, maintained, and that maintenance inspection records are available for inspection by the Regional Board during normal working hours.
County of Los Angeles	5/15/00	Monitoring should also include other sources of litter such as schools and universities that are not under the Permittee's jurisdiction.
		Under EPA Phase II Storm Water Regulations, separate permits will be written for state and federal facilities. Thus, public educational institutions and military installations will be covered under separate permits under Phase II. These entities covered under separate permits will have to conduct baseline monitoring and determine a trash generation factor. Private education facilities, however, are under cities' jurisdiction and are part of the city, and will be assigned the rate of the geographically closest land use.
County of Los Angeles	5/15/00	Current TMDL language limiting flexibility of options should be deleted.
County of Los Angeles	5/15/00	... in-flow monitoring data will show wide variations due to annual rainfall amounts.
Redondo Beach	5/12/00	...baseline monitoring program should include an element that analyzes rainfall patterns to correlate rainfall peak intensities to total daily rainfall.

		Trash TMDL is designed to better account for the year-to-year variability in loadings due to rainfall patterns.
County of Los Angeles	5/15/00	Monitoring ten percent of land area: an appropriate amount of land area required for monitoring (if land area is the method of choice) should be based on a statistical analysis of data rather than an arbitrary number.
Redondo Beach	5/12/00	Because so little is known about the quantity of trash generated and the technical ability to remove it, waiting until Year 5 to evaluate the TMDL may only result in a significant number of violations and lawsuits.
Redondo Beach	5/12/00	The proposed baseline monitoring program is too complex . . . It is recommended that a monitoring program be established that results in a single load allocation value that represents a typical mixture of land uses. The baseline monitoring program should be a watershed-wide effort. This would
		We have attempted to build the source identification component directly into the baseline monitoring program. Our aim is to develop load allocation factors which are based on individual land uses so that they will be more accurate and fair in the long term. The baseline monitoring program should result in the same load allocations for all municipalities, thus placing less of a burden on municipalities that generate less trash.

		result in an average gallons per sq. mile per Area Land Use Factor that reflects the watershed in general. This would give owners of MS4s credit for their existing efforts to remove “trash”.	
Arcadia	4/13/00	Some catch basins are owned and operated by Los Angeles County while others are owned and operated by the City. Which entity is responsible for the trash and litter within and monitoring thereof?	Cities are responsible for their own drains. Amounts of litter will be addressed through permits, and these permits consider the drainage of the storm drains, and assume that catch basins fall under the jurisdiction of the city their are located in. Cities have the option of subcontracting to the County if they wish.
City of La Cañada Flintridge	4/14/00	Since we will be talking about trash that is transported by runoff it is likely that it will be wet 99% of the time. The rare sample that does not get wet will have little or no effect. I would recommend that the Board accept the data as uncompressed volume and wet weight.	Data will be reported in uncompressed volumes, wet mass and dry mass. Should permittees wish to report data in different units, they must agree on a units that they are willing to use for implementation monitoring as well.
			Allocations are in uncompressed volume. Allocations may be assigned in dry weight and a different load factor may be assigned to the various land uses if we obtain enough data to do so. The current allocation is a default allocation that is based upon data provided by the cities and Los Angeles County during the drafting of this TMDL.

VI. Implementation Comments

Respondent	Date	Comment	Response
City of La Cañada Flintridge	4/14/00 5/15/00 Heal the Bay	<p>It is not clear how the Board will judge how the cities are complying with the mandatory reductions of trash contained in this TMDL. As I read this section of the TMDL it clearly states that the cities will have the flexibility to choose combinations of BMP's to create their individual program. This is a good feature of the TMDL. However, the document does not state how the Board will then judge compliance.</p> <p>In the absence of individual municipal implementation monitoring programs, the TMDL program is largely unenforceable. Currently, the draft TMDL encourages "cooperative monitoring programs that cross jurisdictional boundaries." While we support allowing cities the flexibility to juggle their various land-use reductions as long as they meet their overall jurisdictional load allocation reduction, we do not believe it is practical for municipalities to share implementation monitoring programs. Even with appropriate joint-power agreements, enforcement will be impeded.</p>	<p>Implementation will be considered through the stormwater permits.</p> <p>A system of accounting will effectively tie compliance with implementation when a permittee elects to implement partial capture and/or institutional controls. Accounting of the daily generation rate and trash removal via street sweeping, catch basin clean outs, etc. will be tracked in a central database which will be available to the Regional Board for inspection during normal working hours. The database system will allow the computation of calculated discharges and can be coordinated with enforcement.</p>

Heal the Bay	5/15/00	Heal the Bay supports the Regional Board's reference to NPDES Permits as an "implementation tool" of the Trash TMDL, but also requests a clear, more expanded statement regarding enforcement. The draft TMDL should clearly state that violating the annual reductions (or triennial reductions under our scheme) is an enforcement trigger.	This suggestion has been addressed in the final draft Trash TMDL.
Redondo Beach	5/12/00	establish a removal efficiency instead of a concentration limit.	The final draft TMDL defines full capture as collection of 100% of the trash retained in a 5 mm mesh from all the runoff generated from a storm intensity of 0.6 inches/hour and less.
Redondo Beach	5/12/00	not practical to treat 100% of the runoff.	Full capture as defined in the draft final TMDL can be achieved with commercially available technology.
County of Los Angeles	5/15/00	Until reasonable or science based loading capacities and allocations have been determined, it would be premature to include effluent limits in the NPDES permits. ...please change paragraph three to state “the Regional Board <i>will review</i> the implementation plan <i>and load allocations</i> starting in the year 2007 (i.e. after the 2006-2007 storm season)”.	The Waste Load Allocation will be finalized after the baseline monitoring has been completed. The final draft TMDL provides that the Regional Board will review the final load allocations once a reduction of 70% has been achieved and sustained.

		Dates of implementation in Table 5 should be listed as time periods following final adoption of the TMDL, rather than specific dates.	The initial dates in Table 5 have been changed to allow time for final adoption of the TMDL.
Heal The Bay	5/15/00	[. . .] from a scientific perspective, Heal the Bay feels it is imperative that the annual 10% reductions specified by the current implementation guidelines be changed to triennial deadlines, even though such a scheme would not subject a discharger to compliance enforcement until five years from the TMDL's effective date. Currently, the annual 10% reductions cannot indicate implementation effectiveness. Without substantial background data, variability in loadings from municipality to municipality, land use to land use, and even variability from year to year will probably be high. Factors such as rainfall may even be more significant than BMP implementation in the early years of the program. Given the potential large error, percentage reductions in trash should be large enough to demonstrate unequivocally that the implementation measures are responsible for trash loading reductions.	The compliance schedule has been revised and will be based on a rolling 3-year average..
Redondo Beach	5/12/00	The implementation schedule does not recognize the reality that as the	The Board has decided (in response to this and other comments received) to address this concern through

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		concentration of “trash” in the stormwater is lowered, the effort required to produce additional reduction is significantly increased. It is recommended that an implementation schedule for a uniform percent reduction from the previous year be adopted.	use of 3-year rolling averages in the implementation plan (see Section V of the LA River Trash TMDL).
City of Los Angeles	5/15/00	The issue of backsliding is of great concern with respect to setting any limit. Backsliding provisions establish a significant hurdle and burden of proof standard, which makes it very difficult to adjust standards. . . [T]he burden of proof to establish the original standard must be equivalent to the burden of proof required to readjust or reconsider the standard.	Anti-backsliding provisions of the Clean Water Act relate to effluent limitations contained within NPDES permits. 33 U.S.C. §1342(o) prohibits renewal, reissuance, or modification of permits to include less stringent limitations than those contained within the previous permit. Targets established pursuant to a TMDL would raise antibacksliding issues to the extent that load allocations are adopted as effluent limitations in NPDES permits. §1313(d)(4)(A) allows for revision only if the cumulative effect of all such revised effluent limitations based on TMDL’s or waste load allocations will assure the attainment of water quality standards. The draft TMDL does not at this time establish standards or limits for incorporation into NPDES permits. Such limits would be developed based upon information gathered from baseline monitoring. Anti-backsliding is not implicated by the numeric target or watershed-wide load allocation percentages set forth in the draft TMDL.

VII. Economic Analysis Comments

Respondent	Date	Comment	Response
Heal the Bay	5/15/00	Heal the Bay does not agree with city and county contentions that cost-benefit analyses are appropriate considerations for TMDL development, nor do we agree that the cost of monitoring is in excess of the benefits of such monitoring.	Under the Clean Water Act, a State is not required to perform an economic analysis for a project when the purpose of this project is to attain water quality objectives that have already been established. Under CEQA, however, the Board is required to analyze the reasonable foreseeable methods of compliance with proposed performance standards and treatment requirements, when submitting a Basin Plan amendment. This analysis must include economic factors.
City of Los Angeles	5/15/00	The Regional Board must assure than any TMDL established is economically feasible as required by state law.	The Regional Board has considered economic factors associated with implementation of the TMDL to the extent required by state law, in accordance with provisions of CEQA. Actual costs incurred will depend on the method that the Permittees employ to meet the TMDL.
Arcadia City of Temple City South El Monte	4/13/00 5/17/00 5/15/00	The requirement that 10% of the land area be included in the study is cost prohibitive and should be scaled back. We estimate the cost of baseline monitoring in the first year to be about \$50,000.	In response to comments regarding the cost of baseline monitoring, staff has included an alternate baseline monitoring plan, based upon a proposal made by the Los Angeles County Department of Public Works.
City of Signal Hill	7/13/00	The trash TMDL is cost prohibitive ... it would cost the cities hundreds of	Controlling trash discharges via structural treatment devices can be expensive. Institutional controls,

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		millions of dollars to implement structural and operational measures in an attempt to comply with the unachievable zero limit.	including enforcement of litter laws, likely will be much less costly.
County of Los Angeles	5/15/00	Please reference your source of information for the quantities and costs of beach trash removal ...please note that Los Angeles County pays expenses up to \$500,000.00 per year.	The final draft Trash TMDL includes references for sources of information.
City of Los Angeles	5/15/00	A statement also needs to be added recognizing that Permittee cities and the County may not have the authority or available funding to control all sources of litter. Additional programs and assistance will probably be needed from Federal and State agencies, including the RWQCB, to meet the goals of this TMDL.	The reductions in loading will be required as part of the National Pollution Discharge Elimination System (NPDES) permits. This permit requires cities to pass ordinances as necessary to control trash among other things. The State Board has previously found that the requirement to reimburse local agencies for state-mandated costs does not apply to NPDES permits. SWRCB Order No. WQ 90-3 (In the Matter of San Diego Unified Port District). In addition, the exemption afforded by Government Code §17556(c) applies, since the TMDL programs implement federal laws and regulations.

VIII. Miscellaneous Comments

Respondent	Date	Comment	Response
County of Los	5/15/00	Swimming in the river at the mentioned	The Regional Board recognizes members of the

Angeles		locations is not a safe activity and should not be encouraged.	public use the Los Angeles River for swimming. The beneficial use of contact recreation is present in the Los Angeles River and should be protected.
City of Los Angeles	5/15/00	Public Resources Code Sec. 21000 requires that the Regional Board evaluate alternative methods of reducing litter other than through establishment of a TMDL.	Although CEQA requires an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, the Regional Board is not required to analyze alternative means of regulation. The TMDL process is required by the Clean Water Act for impaired water bodies.
City of Los Angeles	5/15/00	Littering is not purely a local issue and would be better addressed through a coordinated federal, state, regional and local effort consistent with Clean Water Act provisions established for municipal storm drain systems.	Development of TMDLs is required by the Clean Water Act for Section 303(d) listed impaired water bodies. In addition, the draft TMDL would establish programs based primarily upon regulation of municipal storm drain system.
City of Glendale	5/11/00	Please provide the City of Glendale's specific program document, progress report, or guidelines that were reviewed by the Regional Board and found to be deficient, resulting in the Notice to Meet and Confer.	This comment does not apply to the TMDL.
City of Los Angeles	5/15/00	The Los Angeles River is ephemeral in nature	The fact that the Los Angeles River is or is not ephemeral is not relevant to the need to develop a TMDL.
Redondo Beach	5/17/00	...the City is neither within the Los	This is correct. The city of Redondo Beach is

	Angeles or San Gabriel rivers nor the Ballona Creek watersheds.	therefore not affected by the Los Angeles River Trash TMDL.
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IX. Timelines Comments

Respondent	Date	Comment	Response
City of Arcadia	4/13/00	Los Angeles County is spending in excess of \$600,000 to construct a new trash and litter removal system on the downstream portion of the Los Angeles River. It would be prudent to wait to see how effective this will be in receiving trash before requiring cities to embark on a costly new venture that may be sufficiently addressed by Los Angeles Counties effort.	Pursuant to the consent decree between Heal the Bay, Santa Monica BayKeeper, et al. v. Browner (USEPA) this TMDL must be completed by March 22, 2001. Therefore, the Regional Board must continue to progress toward completion of the TMDL.
City of Temple City	5/17/00		The initial dates for Baseline Monitoring, as contained in the draft final Trash TMDL, are based on the effective date. This schedule will allow ample time to prepare for baseline monitoring.
City of Los Angeles	5/15/00		
South El Monte	5/15/00		

	The proposed July hearing date is after the upcoming year's budgetary process for the City has been completed. The City Council is not likely to allocate funds to a program that is still in the draft stage.	The item has been postponed to the December 7, 2000 Regional Board Meeting. As described in the final draft TMDL, the Baseline Monitoring Plan is not due to the Regional Board until 120 days after the effective date of the TMDL.
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